(3)

(1) C.F. 1001

SINGLE BENCH

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

WRIT PETITION NO. 2980 OF 2006

PETITIONER : Punaram Verma Son of Shri Dukalu Verma, aged about 38 years, Resident of Village Khairjhiti, Post Morenga, Tahsil Bemetara, District Durg (C.G.).

P.R. No. 2929/06
Presented by Shri S.P. Sahu
dated 19/6/06

VERSUS

RESPONDENTS :

1. The Collector, District Durg, (C.G.).

2. The Sub Divisional Officer, (Revenue), Bemetara, District Durg, (C.G.).

3. The Chief Executive Officer, Janpad Panchayat, Bemetara, District Durg (C.G.).

4. Gram Panchayat, Khairjhiti, Through: The Secretary, Gram Panchayat Khairjhiti, Tahsil Bemetara, District Durg (C.G.).

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16/6/06

12/6/06

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA, 1950 FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS ETC. AND FOR APPROPRIATE ORDER/ORDERS, DIRECTION/DIRECTIONS.

1. PARTICULARS OF THE PETITIONER:

As per the cause title.

(44)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

(43)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP No. 2980/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

26-6-2006:-

Shri P.P. Sahu, counsel for the petitioner.

Shri N.K. Agrawal, Deputy Advocate General for respondents No.1 & 2, on advance copy.

By the instant petition, the petitioner has questioned legality, validity and correctness of the order dated 25-5-2006 passed by the Additional Collector, Bemetara, whereby the Additional Collector rejected the reference made by the petitioner herein under Section 21 (4) of the Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 against no confidence motion dated 2nd March 2006 carried out in the meeting of Panchas and Sarpanch of Gram Panchayat, Kherjhiti.

The main grievance raised by the petitioner in this writ petition is that respondent No.2, the prescribed authority, vide order dated 20th February 2006, fixed the date of meeting of no confidence motion as 2nd March 2006 and also appointed Shri S. Lakra, Chief Executive Officer, Bemetara as presiding officer. The petitioner came to know about illegality as well as the date of meeting of no confidence motion to be held on 2-3-2006, therefore, he preferred an appeal before respondent No.1 in which he mentioned that the meeting was fixed beyond the prescribed time as per the Rule i.e. 15 days beyond the prescribed time and 7 days clear notice on the petitioner was not served.

I have heard learned counsel for the petitioner and perused the record. Sub-rule (3) of Rule 3 of the Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice President Ke Virudh Avishwas Prastav) Niyam, 1994 envisages that on receiving the notice under sub-rule (1) the prescribed authority shall satisfy himself about the admissibility of the notice. On being thus satisfied, he shall fix the date, time and place for the meeting of the Gram Panchayat which shall not be more than fifteen days from the date of receipt of the said notice. The notice of such meeting specifying the date, time and place

(44)

XI-HC-78

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

thereof shall be caused to be despatched by him through the Secretary of the Gram Panchayat to every member of the Panchayat concerned seven days before the meeting. Perusal of the impugned order reveals that notices were issued on 20th February 2006 and meeting was fixed on 2nd March 2006, therefore, from the above fact, it is established that the notices were despatched 7 days before the date of the meeting. Therefore, the point raised by the petitioner has rightly been rejected by the Additional Collector, Bemetara.

Moreover, the petitioner himself participated in the no confidence motion in which Panchas and the petitioner were given opportunities to speak and after hearing all concerned, no confidence motion was carried out which bears the signatures of the petitioner, therefore, the petitioner, even otherwise, has waived his right. Moreover, nothing has been mentioned in the petition that on account of that prejudice was caused to the petitioner.

Now, coming to the second point, even though same was not raised before the Additional Collector, it has been mentioned that the meeting was fixed beyond 15 days, it shows that notices of the no confidence motion was given on 16-2-2006 and the meeting was fixed on 2nd March 2006, thereby month of February being 28 days month, the meeting was very much within 15 days and this ground raised in this petition has no merit. Therefore, the petition of the petitioner has no merit, same is liable to be dismissed and it is hereby dismissed, in limine. No costs.

Consequently, M.(W.)P. No.2280/2006 stands disposed of.

Sd/-
L.C. Bhadoo
Judge

Barve